

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing
5 Section 2-201.5 as follows:

6 (210 ILCS 45/2-201.5)

7 Sec. 2-201.5. Screening prior to admission.

8 (a) All persons age 18 or older seeking admission to a
9 nursing facility must be screened to determine the need for
10 nursing facility services prior to being admitted, regardless
11 of income, assets, or funding source. Screening for nursing
12 facility services shall be administered through procedures
13 established by administrative rule. Screening may be done by
14 agencies other than the Department as established by
15 administrative rule. This Section applies on and after July 1,
16 1996. No later than October 1, 2010, the Department of
17 Healthcare and Family Services, in collaboration with the
18 Department on Aging, the Department of Human Services, and the
19 Department of Public Health, shall file administrative rules
20 providing for the gathering, during the screening process, of
21 information relevant to determining each person's potential
22 for placing other residents, employees, and visitors at risk of
23 harm.

1 (a-1) Any screening performed pursuant to subsection (a) of
2 this Section shall include a determination of whether any
3 person is being considered for admission to a nursing facility
4 due to a need for mental health services. For a person who
5 needs mental health services, the screening shall also include
6 an evaluation of whether there is permanent supportive housing,
7 or an array of community mental health services, including but
8 not limited to supported housing, assertive community
9 treatment, and peer support services, that would enable the
10 person to live in the community. The person shall be told about
11 the existence of any such services that would enable the person
12 to live safely and humanely and about available appropriate
13 nursing home services that would enable the person to live
14 safely and humanely, and the person shall be given the
15 assistance necessary to avail himself or herself of any
16 available services.

17 (a-2) Pre-screening for persons with a serious mental
18 illness shall be performed by a psychiatrist, a psychologist, a
19 registered nurse certified in psychiatric nursing, a licensed
20 clinical professional counselor, or a licensed clinical social
21 worker, who is competent to (i) perform a clinical assessment
22 of the individual, (ii) certify a diagnosis, (iii) make a
23 determination about the individual's current need for
24 treatment, including substance abuse treatment, and recommend
25 specific treatment, and (iv) determine whether a facility or a
26 community-based program is able to meet the needs of the

1 individual.

2 For any person entering a nursing facility, the
3 pre-screening agent shall make specific recommendations about
4 what care and services the individual needs to receive,
5 beginning at admission, to attain or maintain the individual's
6 highest level of independent functioning and to live in the
7 most integrated setting appropriate for his or her physical and
8 personal care and developmental and mental health needs. These
9 recommendations shall be revised as appropriate by the
10 pre-screening or re-screening agent based on the results of
11 resident review and in response to changes in the resident's
12 wishes, needs, and interest in transition.

13 Upon the person entering the nursing facility, the
14 Department of Human Services or its designee shall assist the
15 person in establishing a relationship with a community mental
16 health agency or other appropriate agencies in order to (i)
17 promote the person's transition to independent living and (ii)
18 support the person's progress in meeting individual goals.

19 (a-3) The Department of Human Services, by rule, shall
20 provide for a prohibition on conflicts of interest for
21 pre-admission screeners. The rule shall provide for waiver of
22 those conflicts by the Department of Human Services if the
23 Department of Human Services determines that a scarcity of
24 qualified pre-admission screeners exists in a given community
25 and that, absent a waiver of conflicts, an insufficient number
26 of pre-admission screeners would be available. If a conflict is

1 waived, the pre-admission screener shall disclose the conflict
2 of interest to the screened individual in the manner provided
3 for by rule of the Department of Human Services. For the
4 purposes of this subsection, a "conflict of interest" includes,
5 but is not limited to, the existence of a professional or
6 financial relationship between (i) a PAS-MH corporate or a
7 PAS-MH agent and (ii) a community provider or long-term care
8 facility.

9 (b) In addition to the screening required by subsection
10 (a), a facility, except for those licensed as long term care
11 for under age 22 facilities, shall, within 24 hours after
12 admission, request a criminal history background check
13 pursuant to the Uniform Conviction Information Act for all
14 persons age 18 or older seeking admission to the facility,
15 unless (i) a background check was initiated by a hospital
16 pursuant to subsection (d) of Section 6.09 of the Hospital
17 Licensing Act; (ii) the transferring resident is immobile;
18 (iii) the transferring resident is moving into hospice; (iv)
19 the transferring resident is wheelchair bound and is 75 years
20 of age or older; or (v) the transferring resident is 65 years
21 of age or older and has undergone a fingerprint screening that
22 showed no violent criminal history or criminal history for at
23 least 15 years and, based on risk analysis, does not show
24 indications of substance abuse or serious mental health issues.
25 The exemptions provided in items (ii) through (v) of this
26 subsection (b) shall apply only if a background check was

1 completed by the facility the resident resided at prior to
2 seeking admission to the facility and the resident was
3 transferred to the facility with no time passing during which
4 the resident was not institutionalized. If item (ii), (iii),
5 (iv), or (v) of this subsection (b) applies, the prior facility
6 shall provide a copy of its background check of the resident
7 and all supporting documentation, including, when applicable,
8 the criminal history report and the security assessment, to the
9 facility to which the resident is being transferred. Background
10 checks conducted pursuant to this Section shall be based on the
11 resident's name, date of birth, and other identifiers as
12 required by the Department of State Police. If the results of
13 the background check are inconclusive, the facility shall
14 initiate a fingerprint-based check, unless the fingerprint
15 check is waived by the Director of Public Health based on
16 verification by the facility that the resident is completely
17 immobile or that the resident meets other criteria related to
18 the resident's health or lack of potential risk which may be
19 established by Departmental rule. A waiver issued pursuant to
20 this Section shall be valid only while the resident is immobile
21 or while the criteria supporting the waiver exist. The facility
22 shall provide for or arrange for any required fingerprint-based
23 checks to be taken on the premises of the facility. If a
24 fingerprint-based check is required, the facility shall
25 arrange for it to be conducted in a manner that is respectful
26 of the resident's dignity and that minimizes any emotional or

1 physical hardship to the resident.

2 (c) If the results of a resident's criminal history
3 background check reveal that the resident is an identified
4 offender as defined in Section 1-114.01, the facility shall do
5 the following:

6 (1) Immediately notify the Department of State Police,
7 in the form and manner required by the Department of State
8 Police, in collaboration with the Department of Public
9 Health, that the resident is an identified offender.

10 (2) Within 72 hours, arrange for a fingerprint-based
11 criminal history record inquiry to be requested on the
12 identified offender resident. The inquiry shall be based on
13 the subject's name, sex, race, date of birth, fingerprint
14 images, and other identifiers required by the Department of
15 State Police. The inquiry shall be processed through the
16 files of the Department of State Police and the Federal
17 Bureau of Investigation to locate any criminal history
18 record information that may exist regarding the subject.
19 The Federal Bureau of Investigation shall furnish to the
20 Department of State Police, pursuant to an inquiry under
21 this paragraph (2), any criminal history record
22 information contained in its files.

23 The facility shall comply with all applicable provisions
24 contained in the Uniform Conviction Information Act.

25 All name-based and fingerprint-based criminal history
26 record inquiries shall be submitted to the Department of State

1 Police electronically in the form and manner prescribed by the
2 Department of State Police. The Department of State Police may
3 charge the facility a fee for processing name-based and
4 fingerprint-based criminal history record inquiries. The fee
5 shall be deposited into the State Police Services Fund. The fee
6 shall not exceed the actual cost of processing the inquiry.

7 (d) (Blank).

8 (e) The Department shall develop and maintain a
9 de-identified database of residents who have injured facility
10 staff, facility visitors, or other residents, and the attendant
11 circumstances, solely for the purposes of evaluating and
12 improving resident pre-screening and assessment procedures
13 (including the Criminal History Report prepared under Section
14 2-201.6) and the adequacy of Department requirements
15 concerning the provision of care and services to residents. A
16 resident shall not be listed in the database until a Department
17 survey confirms the accuracy of the listing. The names of
18 persons listed in the database and information that would allow
19 them to be individually identified shall not be made public.
20 Neither the Department nor any other agency of State government
21 may use information in the database to take any action against
22 any individual, licensee, or other entity, unless the
23 Department or agency receives the information independent of
24 this subsection (e). All information collected, maintained, or
25 developed under the authority of this subsection (e) for the
26 purposes of the database maintained under this subsection (e)

1 shall be treated in the same manner as information that is
2 subject to Part 21 of Article VIII of the Code of Civil
3 Procedure.

4 (Source: P.A. 96-1372, eff. 7-29-10; 97-48, eff. 6-28-11.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.